

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

KRISTINE OWER, P.A.

Physician Assistant
License No. PA-15583

Respondent.

Case No. D1-2003-151220

OAH No: L2007060148

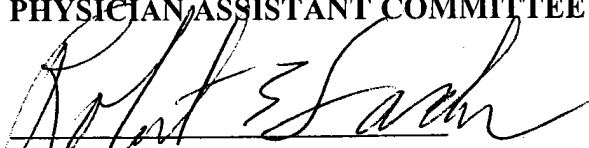
DECISION

The attached Stipulated Surrender of License and Order is hereby accepted and adopted as the Decision and Order by the Physician Assistant Committee of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 9, 2008.

DATED May 2, 2008.

PHYSICIAN ASSISTANT COMMITTEE


Robert Sachs, P.A.
Chairman

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 STEVEN V. ADLER
Supervising Deputy Attorney General
3 MARY AGNES MATYSZEWSKI, State Bar No. 137858
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
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6 P.O. Box 85266
San Diego, CA 92186-5266
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8
9 Attorneys for Complainant

10 **BEFORE THE**
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 KRISTINE OWER, P.A.
14 417 Foothill Blvd., B101
15 Glendora, CA 91741

16 Physician Assistant License No. PA 15583

17 Respondent.

D1-2003-151220

Case No. ~~1E-2006-172639~~

OAH No. L-2007060148

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 PARTIES

22 1. Elberta Portman (Complainant) brought this Action in her official capacity
23 as the Executive Officer of the Physician Assistant Committee, ("Committee"), Department of
24 Consumer Affairs, State of California. and is represented in this matter by Edmund G. Brown Jr.,
25 Attorney General of the State of California, by Mary Agnes Matyszewski, Deputy Attorney
26 General.

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1 2. KRISTINE OWER, P.A. (Respondent) is represented in this proceeding by
2 attorney Benjamin N. Gluck, Esq., whose address is 1875 Century Park East, 23rd Floor
3 Los Angeles, CA 90067-2561.

4 3. On or about November 30, 2000, the Physician Assistant Committee
5 issued Physician Assistant License No. PA 15583 to KRISTINE OWER, P.A. (Respondent).
6 The Certificate will expire on November 30, 2008, unless renewed.

7 JURISDICTION

8 4. Accusation No. 1E-2006-172639 was filed before the Committee and is
9 currently pending against Respondent. The Accusation and all other statutorily required
10 documents were properly served on Respondent on April 30, 2007. Respondent timely filed her
11 Notice of Defense contesting the Accusation. A copy of Accusation No. 1E-2006-172639 is
12 attached as exhibit A and incorporated herein by reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, discussed with counsel, and fully
15 understands the charges and allegations in Accusation No. 1E-2006-172639. Respondent also
16 has carefully read, discussed with counsel, and fully understands the effects of this Stipulated
17 Surrender of License and Order.

18 6. Respondent is fully aware of her legal rights in this matter, including the
19 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
20 counsel, at her own expense; the right to confront and cross-examine the witnesses against her;
21 the right to present evidence and to testify on her own behalf; the right to the issuance of
22 subpoenas to compel the attendance of witnesses and the production of documents; the right to
23 reconsideration and court review of an adverse decision; and all other rights accorded by the
24 California Administrative Procedure Act and other applicable laws.

25 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
26 each and every right set forth above.

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1 CULPABILITY

2 8. Respondent understands that by signing this stipulation she enables the
3 Committee to issue an order accepting the surrender of her Physician Assistant Certificate
4 without further process.

5 CONTINGENCY

6 9. This stipulation shall be subject to approval by the Committee.
7 Respondent understands and agrees that counsel for Complainant and the staff of the Committee
8 may communicate directly with the Committee regarding this stipulation and settlement, without
9 notice to or participation by Respondent. By signing the stipulation, Respondent understands and
10 agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the
11 time the Committee considers and acts upon it. If the Committee fails to adopt this stipulation as
12 its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
13 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
14 and the Committee shall not be disqualified from further action by having considered this matter.

15 11. This Stipulated Settlement and Disciplinary Order is intended by the
16 parties herein to be an integrated writing representing the complete, final and exclusive
17 embodiment of the agreements of the parties in the above-entitled matter.

18 12. The parties understand and agree that facsimile copies of this Stipulated
19 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
20 force and effect as the originals.

21 13. In consideration of the foregoing stipulations, the parties agree that the
22 Committee may, without further notice or formal proceeding, issue and enter the following
23 Disciplinary Order:

24 ORDER

25 IT IS HEREBY ORDERED that Physician Assistant License No. PA 15583,
26 issued to Respondent KRISTINE OWER, P.A. is surrendered and accepted by the Committee.

27 1. The surrender of Respondent's Physician Assistant Certificate and the
28 acceptance of the surrendered license by the Board shall constitute the imposition of discipline

1 against Respondent. This stipulation constitutes a record of the discipline and shall become a
2 part of Respondent's license history with the Board.

3 2. Respondent shall lose all rights and privileges as a Physician's Assistant in
4 California as of the effective date of the Committee's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board both her Certificate
6 wall and pocket license certificate on or before the effective date of the Decision and Order.

7 4. Respondent fully understands and agrees that if she ever files an
8 application for licensure or a petition for reinstatement in the State of California, the Committee
9 shall treat it as a petition for reinstatement. Respondent must comply with all the laws,
10 regulations and procedures for reinstatement of a revoked license in effect at the time the petition
11 is filed, and the Committee may deem all of the charges and allegations contained in Accusation
12 No. 1E-2006-172639, except for the charges pled at paragraph 8, sections B-E, inclusive, as if
13 they were true and correct when the Committee determines whether to grant or deny the petition.
14 This understanding is for purposes of this administrative action only, and shall not be used in any
15 other civil or criminal matters.

16 5. Should Respondent ever apply or reapply for a new license or certification,
17 or petition for reinstatement of a license, by any other health care licensing agency in the State of
18 California, that health care licensing agency may deem all of the charges and allegations
19 contained in Accusation No. 1E-2006-172639, except for the charges pled at paragraph 8,
20 sections B-E, inclusive, as if they were true and correct.

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1 paragraph 8, sections B-E, inclusive, as if they were true and correct.

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ACCEPTANCE


11

I have carefully read the above Stipulated Surrender of License and Order and
12 have fully discussed it with my attorney, Benjamin N. Gluck, Esq. I understand the stipulation
13 and the effect it will have on my Physician Assistant Certificate. I enter into this Stipulated
14 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
15 by the Decision and Order of the Physician Assistant Committee of the State of California.

16

DATED: 1/10/08

17


KRISTINE OWER, P.A.
Respondent

18

19

I have read and fully discussed with Respondent KRISTINE OWER, P.A. the
20 terms and conditions and other matters contained in this Stipulated Surrender of License and
21 Order. I approve its form and content.

22

DATED: 1/11/08

23


BENJAMIN N. GLUCK, ESQ.
Attorney for Respondent

24

25

26

ENDORSEMENT

27

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and
3 have fully discussed it with my attorney, Benjamin N. Gluck, Esq. I understand the stipulation
4 and the effect it will have on my Physician Assistant Certificate. I enter into this Stipulated
5 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
6 by the Decision and Order of the Physician Assistant Committee of the State of California.

7 DATED: _____.

8 _____
9 KRISTINE OWER, P.A.
Respondent

10 I have read and fully discussed with Respondent KRISTINE OWER, P.A. the
11 terms and conditions and other matters contained in this Stipulated Surrender of License and
12 Order. I approve its form and content.

13 DATED: _____.

14 _____
15 BENJAMIN N. GLUCK, ESQ.
16 Attorney for Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Physician Assistant Committee of the State of California.

20 DATED: 1-14-08

21 _____
22 EDMUND G. BROWN JR., Attorney General
of the State of California

23 STEVEN V. ADLER
24 Supervising Deputy Attorney General

25 _____
26 MARY AGNES MATYSZEWSKI
27 Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 1E-2006-172639

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO April 30 20 07
BY Allen B. Jenkins ANALYST

1 EDMUND G. BROWN JR, Attorney General
of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 STEVEN H. ZEIGEN, State Bar No. 60225
Deputy Attorney General
4 California Department of Justice
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5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2074
Facsimile: (619) 645-2061
8
9 Attorneys for Complainant

10 **BEFORE THE**
11 **PHYSICIAN ASSISTANT COMMITTEE**
12 **MEDICAL BOARD OF CALIFORNIA**
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

13 In the Matter of the Accusation and Petition to
14 Revoke Probation Against:

Case No. D1-2003-151220

OAH No.

15 KRISTINE OWER, P.A.
417 Foothill Blvd., B101
16 Glendora, CA 91741

**ACCUSATION AND
PETITION TO REVOKE
PROBATION**

17 Physician Assistant License No. PA 15583

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

- 21 1. Elberta Portman (Complainant) brings this Accusation and Petition to
22 Revoke Probation solely in her official capacity as the Executive Officer of the Physician
23 Assistant Committee, Department of Consumer Affairs, State of California.
24 2. On or about November 30, 2000, the Physician Assistant Committee
25 issued Physician Assistant License Number PA 15583 to KRISTINE OWER, P.A. (Respondent).
26 The Physician Assistant License was in full force and effect at all times relevant to the charges
27 brought herein and will expire on November 30, 2008, unless renewed.

28 ///

3. In a disciplinary action entitled "In the Matter of the Accusation Against KRISTINE OWER, P.A.", Case No. 1E-2003-151220, the Physician Assistant Committee, Department Consumer Affairs, State of California, issued a decision, effective December 14, 2005, in which Respondent's Physician Assistant License No. PA-15583 was revoked. However, the revocation was stayed, and Respondent's License was placed on probation for a period of seven (7) years, with various terms and conditions, including an actual suspension of six (6) months. A true and correct copy of that decision is attached as Exhibit A, and is incorporated by reference.

JURISDICTION

4. This Accusation and Petition to Revoke Probation is brought before the Physician Assistant Committee (Committee) for the Medical Board of California, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

A. Section 3527, subdivision (a) of the Code states:

" The committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the committee or the board.:

B. Section 2234 of the Code states:

"The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

"(b) Gross negligence.

1 "(c) Repeated negligent acts. To be repeated, there must be two or more
2 negligent acts or omissions. An initial negligent act or omission followed by a separate
3 and distinct departure from the applicable standard of care shall constitute repeated
4 negligent acts.

5 "(1) An initial negligent diagnosis followed by an act or omission medically
6 appropriate for that negligent diagnosis of the patient shall constitute a single negligent
7 act.

8 "(2) When the standard of care requires a change in the diagnosis, act, or
9 omission that constitutes the negligent act described in paragraph (1), including, but not
10 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's
11 conduct departs from the applicable standard of care, each departure constitutes a separate
12 and distinct breach of the standard of care.

13 "(d) Incompetence.

14 "(e) The commission of any act involving dishonesty or corruption which is
15 substantially related to the qualifications, functions, or duties of a physician and surgeon.

16 "(f) Any action or conduct which would have warranted the denial of a certificate.

17 "..."

18 C. Section 2052 of the Code states:

19 "(a)...any person who practices or attempts to practice, or who advertises or holds
20 himself out as practicing, any system or mode of treating the sick or the afflicted in this
21 state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish,
22 deformity, disease, disfigurement, disorder, injury, or other physical or mental condition
23 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended
24 certificate as provided in this chapter or without being authorized to perform the act
25 pursuant to a certificate obtained in accordance with some other provision of law is guilty
26 of a public offense..."

27 "..."

28 "(c) The remedy provided in this section shall not preclude any other remedy

1 provided by law."

2 D. Section 2261 of the Code states:

3 "Knowingly making or signing any certificate or other document directly or
4 indirectly related to the practice of medicine or podiatry which falsely represents the
5 existence or nonexistence of a state of facts, constitutes unprofessional conduct."

6 E. Section 2262 of the Code states:

7 "Altering or modifying the medical records of any person, with fraudulent intent,
8 or creating any false medical record, with fraudulent intent, constitutes unprofessional
9 conduct."

10 F. Section 2264 of the Code states:

11 "The employing, directly or indirectly, the aiding, or the abetting of any
12 unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the
13 practice of medicine or any other mode of treating the sick or afflicted which requires a
14 license to practice constitutes unprofessional conduct."

15 G. Section 2266 of the Code provides that the failure to maintain adequate
16 and accurate records relating to the provision of services to their patients constitutes
17 unprofessional conduct.

18 H. Section 810 of the Code states:

19 "(a) It shall constitute unprofessional conduct and grounds for disciplinary action,
20 including suspension or revocation of a license or certificate, for a health care
21 professional to do any of the following in connection with his or her professional
22 activities:

23 "(1) Knowingly present or cause to be presented any false or fraudulent claim for
24 the payment of a loss under a contract of insurance.

25 "(2) Knowingly prepare, make, or subscribe any writing, with intent to present or
26 use the same, or to allow it to be presented or used in support of any false or fraudulent
27 claim.

28 "(b) It shall constitute cause for revocation or suspension of a license or

1 certificate for a health care professional to engage in any conduct prohibited under
2 Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.

3 "..."

4 I. Section 2286 of the Code states:

5 "It shall constitute unprofessional conduct for any licensee to violate, to attempt to
6 violate, directly or indirectly, to assist in or abet the violation of, or to conspire to violate
7 any provision or term of Article 18 (commencing with Section 2400), of the Moscone-
8 Knox Professional Corporation Act (Part 4 commencing with Section 13400) of Division
9 3 of Title 1 of the Corporations Code), or of any rules and regulations duly adopted under
10 those laws."

11 J. Section 2400 of the Code states:

12 "Corporations and other artificial legal entities shall have no professional rights,
13 privileges, or powers. However, the Division of Licensing may in its discretion, after
14 such investigation and review of such documentary evidence as it may require, and under
15 regulations adopted by it, grant approval of the employment of licensees on a salary basis
16 by licensed charitable institutions, foundations, or clinics, if no charge for professional
17 services rendered patients is made by any such institution, foundation, or clinic."

18 K. Section 2402 of the Code states:

19 "The provisions of Section 2400 do not apply to a medical or podiatry corporation
20 practicing pursuant to the Moscone-Knox Professional Corporation Act (Part 4
21 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code) and
22 this article, when such corporation is in compliance with the requirements of these
23 statutes and all other statutes and regulations now or hereafter enacted or adopted
24 pertaining to such corporations and the conduct of their affairs."

25 L. Section 2406 of the Code states:

26 "A medical corporation or podiatry corporation is a corporation which is
27 authorized to render professional services, as defined in Sections 13401 and 13401.5 of
28 the Corporations Code, so long as that corporation and its shareholders, officers, directors

1 and employees rendering professional services who are physicians, psychologists,
2 registered nurses, optometrists, podiatrists or, in the case of a medical corporation only,
3 physician assistants, are in compliance with the Moscone-Knox Professional Corporation
4 Act, the provisions of this article and all other statutes and regulations now or hereafter
5 enacted or adopted pertaining to the corporation and the conduct of its affairs. With
6 respect to a medical corporation or podiatry corporation, the governmental agency
7 referred to in the Moscone-Knox Professional Corporation Act is the Division of
8 Licensing."

9 M. Section 2408 the Code states:

10 "Except as provided in Sections 13401.5 and 13403 of the Corporations Code,
11 each shareholder, director and officer of a medical or podiatry corporation, except an
12 assistant secretary or an assistant treasurer, shall be a licensed person as defined in
13 Section 13401 of the Corporations Code. Notwithstanding the provisions of this section
14 or Sections 13401.5, 13403, 13406, and 13407 of the Corporations Code, a shareholder of
15 a medical corporation which renders professional services may be a medical corporation
16 which has only one shareholder who shall be a licensed person as defined in Section
17 13401 of the Corporations Code. The shareholder of the latter corporation may be an
18 officer or director of the former corporation. Nothing in this section shall be construed as
19 prohibiting a nonlicensed person from using the business titles of executive vice
20 president, chief executive officer, executive secretary, or any other title denoting an
21 administrative function within the professional corporation."

22 N. California Code of Regulations, title 16, section 1399.521, states:

23 "In addition to the grounds set forth in section 3527, subdivision (a), of the Code
24 the committee may deny, issue subject to terms and conditions, suspend, revoke or place
25 on probation a physician assistant for the following causes:

26 "(a) Any violation of the State Medical Practice Act which would constitute
27 unprofessional conduct for a physician and surgeon.

28 "(b) Using fraud or deception in passing an examination administered or approved

1 by the committee.

2 "(c) Practicing as a physician assistant under a physician who has been prohibited
3 by the division or the Osteopathic Medical Board of California from supervising
4 physician assistants.

5 "(d) Performing medical tasks which exceed the scope of practice of a physician
6 assistant as prescribed in these regulations."

7 O. California Code of Regulations, title 16, section 1399.540, states:

8 "A physician assistant may only provide those medical services which he
9 or she is competent to perform and which are consistent with the physician
10 assistant's education, training, and experience, and which are delegated in writing
11 by a supervising physician who is responsible for the patients cared for by that
12 physician assistant. The committee or division or their representative may require
13 proof or demonstration of competence from any physician assistant for any tasks,
14 procedures or management he or she is performing. A physician assistant shall
15 consult with a physician regarding any task, procedure or diagnostic problem
16 which the physician assistant determines exceeds his or her level of competence
17 or shall refer such cases to a physician."

18 COST RECOVERY

19 5. Section 125.3 of the Code states, in pertinent part, that the Committee may
20 request the administrative law judge to direct a licentiate found to have committed a violation or
21 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
22 and enforcement of the case.

23 FIRST CAUSE TO REVOKE PROBATION

24 (Practicing in an Unapproved Setting and Without On-site Supervision)

25 6. At all times after the effective date of Respondent's probation, Condition 5
26 stated:

27 "PROHIBITED PRACTICE-SETTING During probation, respondent may not
28 practice except in a hospital as an employee of the hospital, or in an office of a

1 medical group consisting of no less than three (3) physicians as an employee of
2 that group, or in any other setting pre-approved in writing by the Committee or its
3 designee under pre-approved terms and conditions. Respondent shall not practice
4 in any setting in which she had any financial interest."

5 7. At all times after the effective date of Respondent's probation, Condition 6
6 stated:

7 "ON-SITE SUPERVISION Respondent shall have at all times on-site supervision
8 by a supervising physician pre-approved by the PAC. No prior supervising
9 physician of respondent involved in this matter will be approved by the PAC."

10 8. Respondent's probation is subject to revocation because she failed to
11 comply with Probation Conditions 5 and 6 referenced above. The facts and circumstances
12 regarding this violation are as follows:

13 A. On or about September 18, 2006, Kristal C. was hired as the Operations
14 Manager of Better Health, Inc., a medical office management company owned by
15 respondent's husband, Sven Bockholdt. The company purportedly managed the medical
16 practice of Dr. H., whose company was called "Skin Rx".

17 B. On or about November 23, 2006, Thanksgiving Day, Kristal C.'s stepson
18 injured his lip and Ms. C. called respondent, who told her to go to the office and get some
19 lidocaine, sutures, needles, gauze and bring them to respondent's other business, "Edible
20 Arrangements", in the La Verne area.

21 C. When Ms. C. and her stepson arrived, respondent cleaned off a table and
22 had the young man lay on it. Respondent then injected his lip with numbing medication,
23 after which she sutured his lip.

24 D. At the time respondent sewed the lip of Kristal C.'s son she neither
25 worked in a hospital setting, nor in a medical practice of three or more physicians.

26 E. At the time respondent sewed the lip of Kristal C.'s son she had no on-site
27 supervision of her work by a pre-approved supervising physician.

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1 C. Juliette S.'s last laser treatment was on or about August 5, 2005, at the
2 SCASCC office in Monrovia. She arrived with her sister Jamie K., who was also
3 scheduled for laser hair removal. Donna Ower met Juliette S. and told her she would be
4 doing the laser treatment. The only other employee on the premises was an esthetician
5 named Melissa V.

6 D. Donna Ower put numbing cream on the faces of both Juliette and Jamie.
7 Donna Ower worked on Juliette S. first. With the first shot of the laser Juliette S. felt
8 extreme discomfort, unlike anything she had felt before with the treatment. She told
9 Donna Ower "I think you're burning me." Ms. Ower replied the machine did not burn
10 people.

11 E. Juliette S.'s treatment lasted fifteen minutes and each time the laser was
12 used she complained to Ms. Ower that it hurt. Ms. Ower said she re-calibrated the
13 machine and put something on the cap to cool it.

14 F. When the treatment was over, and Juliette S. stood up, it felt as if her face
15 were on fire. When she looked in the mirror she saw her face was red and blistered. Her
16 skin felt as if it were melting off her face. Melissa V., the esthetician, brought Juliette S.
17 some ice for her face

18 G. Juliette S. contacted her insurance about the burns on her face and was
19 referred to Dr. W., who examined her face.

20 H. In addition to the laser hair removal, Juliette S. had received a few facials
21 from Melissa V. At no time, did Juliette S. have major acne, or any surgery to remove it.

22 I. Patient Jamie K. first saw respondent at SCASCC in October 2004, about
23 laser hair removal. On the first four visits, respondent performed laser hair removal on
24 her face and bikini areas at the Rancho Cucamonga location of SCASCC. Like her sister,
25 Jamie K.'s treatment in August 2005, was performed by Donna Ower. She heard her
26 sister say something about burning and Donna Ower say the coolant may have been low.

27 J. When Donna Ower first applied the laser to Jamie K.'s face it felt fine.
28 Thereafter, she told Donna Ower her face was burning. Melissa V. came into the room

1 and said she had spoken with respondent on the phone and had been told to turn the laser
2 down.

3 K. Both Jamie K. and her sister were given a cream for the burning, but it
4 stung when they put it on their faces. Donna Ower told them they would be fine.

5 L. Jamie K.'s skin was peeling off her face and bikini area. She was later
6 told by Dr. W., that she had 2nd degree burns, and should never have put the cream
7 Donna Ower gave them on her face.

8 M. Previously, Jamie K. had received three facials from Melissa V. Jamie K.
9 was told by respondent the tiny bumps around her eyes were calcium deposits. Jamie K.
10 never had acne, nor did she ever have any surgery to remove it.

11 12. Respondent is further subject to disciplinary action for violating sections
12 3527 and 2264 by reason of her aiding and abetting the unlicensed practice of medicine by
13 Donna Ower as detailed in paragraphs 11 (A) through (M), which are incorporated by reference
14 as if fully set forth herein.

15 **SECOND CAUSE FOR DISCIPLINE**

16 (Making False Statements)

17 13. Respondent is further subject to disciplinary action under section 3527, as
18 defined by section 2261, in that she knowingly made documents relating to the practice of
19 medicine which falsely represented the existence or nonexistence of a state of facts as more
20 particularly alleged below:

21 A. On or about May 24, 2005, patient Tammy M. first saw respondent at
22 SCASCC about bumps on her feet and brown spots on her legs. Respondent used a
23 heated wire to burn off the patient's bumps. Ms. M. was charged \$150.00 for the
24 procedure which she paid for in cash, since the procedure was cosmetic in nature.
25 Respondent never said anything about billing Ms. M.'s insurance company.

26 B. Patient Tammy M. returned to SCASCC on or about June 13, 2005, and
27 was again seen by respondent, who used a laser on her legs, targeting about 25 spots. Ms.
28 M. paid \$125.00 for this procedure by check. At no time was Tammy M. treated for acne,

1 nor was an incision and drainage ever performed on her, nor did she ever have a skin peel
2 or cryotherapy.

3 C. Respondent billed Blue Shield \$1,466.54 for services provided to patient
4 Tammy M.

5 D. Patient Gretchen P. first went to SCASCC in or about June 2005.
6 Respondent examined Ms. P., told her she had Rosaceae, and recommended one laser
7 treatment a month and an acne facial. At no time did patient Gretchen P. undergo an
8 incision and drainage of any acne cyst.

9 E. Patient Gretchen P. returned to SCASCC several times through December
10 2005. At the December 2005, visit pictures were taken of her face, but she was never told
11 she was part of a Rosaceae study protocol. Patient Gretchen P. made a \$20.00 co-pay for
12 each visit.

13 F. Respondent billed Blue Shield \$3,258.08 for services provided to patient
14 Gretchen P.

15 G. Respondent billed United Health Care Group \$11,176.63 for services
16 provided to patient Juliette S. (Para.11 (B) through (H), supra.).

17 H. Respondent billed Blue Shield \$11,222.70 for services provided to patient
18 Jamie K. (Paragraphs 11(I) through (M), supra.).

19 14. Respondent is subject to further disciplinary action for violating sections
20 3527 and 2261 by reason of, but not limited too, the following:

21 A. Respondent never performed acne surgery, cryotherapy, or skin peel on
22 patient Tammy M., but documented that she had, and billed the patient's insurance
23 company for these services.

24 B. Respondent never informed patient Gretchen P. she was part of a Rosaceae
25 study protocol, nor did she ever perform incisions and drainage for which patient
26 Gretchen P.'s insurance company was billed.

27 C. Respondent never performed destruction of benign lesions, cryotherapy,
28 excision and drainage of benign lesions, and chemical exfoliation for acne on patient

1 Juliette S., but documented that she had, and billed the patient's insurance company for
2 these services.

3 D. Respondent billed for various procedures performed on patient Juliette S.
4 on August 5, 2005, despite the fact respondent was not on the premises and the services
5 were performed by Donna Ower.

6 E. Donna Ower never performed incision and drainage, destruction of benign
7 lesions, chemical exfoliation for acne, and cryotherapy despite those services being
8 documented and billed to the patient Juliette S.'s insurance company on August 5, 2005.

9 F. Respondent never performed incision and drainage, destruction of benign
10 lesions, chemical exfoliation for acne, and cryotherapy despite those services being
11 documented and billed to patient Jamie K.'s insurance company.

12 **THIRD CAUSE FOR DISCIPLINE**

13 (Alteration of Medical Records)

14 15. Respondent is further subject to disciplinary action under section 3527, as
15 defined by section 2262, in that she altered the medical records of patients T.M., G.P., J.S., and
16 J.K. as more particularly alleged below: Paragraphs 11 and 13, in their entirety, are incorporated
17 by reference as if fully set forth herein.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Insurance Fraud)

20 16. Respondent is further subject to disciplinary action under section 810 in
21 that she committed insurance fraud with respect to patients T.M., G.P., J.S., and J.K. as more
22 particularly alleged below: Paragraphs 11 and 13, in their entirety, are incorporated by reference
23 as if fully set forth herein.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 (Failure to Maintain Adequate and Accurate Records)

26 17. Respondent is further subject to disciplinary action under section 3527, as
27 defined by section 2266, in that she failed to maintain adequate and accurate records relating to
28 the provision of services to patients T.M., G.P., J.S., and J.K., as more particularly alleged

1 below: Paragraphs 11 and 13, in their entirety, are incorporated by reference as if fully set forth
2 herein.

3 SIXTH CAUSE FOR DISCIPLINE

4 (Dishonest Acts)

5 18. Respondent is further subject to disciplinary action under sections 3527
6 and 2234 of the Code, as defined by section 2234, subdivision (e), in that she committed acts of
7 dishonesty or corruption in her care and treatment of patients T.M., G.P., J.S., and J.K as more
8 particularly alleged below: Paragraphs 11 and 13 above are incorporated by reference as if fully
9 set forth herein.

10 SEVENTH CAUSE FOR DISCIPLINE

11 (Illegal Corporate Practice of Medicine)

12 19. Respondent is further subject to disciplinary action under sections 2234,
13 2400, 2402, 2406, and 2408 of the Code, in that she engaged in the illegal corporate practice of
14 medicine as more particularly alleged below:

15 HISTORY OF SCASCC

16 A. F.P., M.D., started SCASCC, a medical corporation, in 2003 with
17 respondent. Although Dr. P., was a family practitioner and not a dermatologist, SCASCC
18 treated patients in cosmetic dermatology. Dr. P. was the CEO, while respondent was the
19 secretary and treasurer and, along with Dr. P., served as Directors.

20 B. Dr. P. was hospitalized in December 2004, at which time a Dr. N., now
21 deceased, began "supervising" respondent. After Dr. P.'s death, Dr. N. bought Dr. P.'s
22 51% of SCASCC's shares from Dr. P.'s estate for \$500 on or about January 21, 2005.
23 Prior to his purchase, Dr. N. failed to obtain a listing of the corporation's assets or
24 liabilities. Dr. N. never applied to the Medical Board for a fictitious name permit.

25 C. On or about January 21, 2005, Dr. N. began leasing lasers from
26 Chateau of Well Being, Inc., ("CWB"), a corporation formed by respondent. The lease,
27 which ran from January 25, 2005, until January 25, 2015, required monthly payments of
28 \$7,496.66 and a \$5,000.00 deposit from SCASCC. Laser maintenance and repairs were

1 to be paid by respondent through CWB.

2 D. At the time of Dr. N.'s purchase of his interest in SCASCC, respondent
3 claimed to have loaned the corporation approximately \$700,000, although there is no
4 documentation of the precise loan amount, the terms of the loan, or its duration.

5 **RESPONDENT'S RELATIONSHIP WITH DR. N.**

6 E. SCASCC has two facilities, one in Monrovia and the other in Apple
7 Valley. Dr. N. worked in Monrovia on Tuesdays, Wednesdays and alternating Saturdays,
8 while working at Apple Valley Thursdays, Fridays and alternating Saturdays. Respondent
9 worked almost exclusively in Apple Valley.

10 F. In or about January 2005, a management contract was signed between
11 CWB and SCASCC. The agreement provided that with one hundred twenty (120) days
12 written notice of either party terminating the agreement, Dr. N. would be obligated to sell
13 his interest to another physician found by respondent willing to purchase Dr. N.'s assets
14 for the same price he paid for them.

15 G. In 2005, SCASCC paid \$180,000 to Dr. N. in salary, \$74,966 to CWB for
16 laser leasing, \$125,000 to respondent for loan repayment, \$62,000 to respondent in salary,
17 \$62,000 to a relative of respondent, and \$19,000 to the widow of Dr. P. Dr. N. was
18 unaware of the latter two payments.

19 H. The hiring, firing, and training of staff, including medical staff, at
20 SCASCC, and its funds, were under respondent's control. Dr. N. did not even have keys
21 for the facility in Apple Valley.

22 I. Physician assistant protocols were signed between Dr. N., and respondent
23 in December 2004, even before Dr. N. purchased the shares from Dr. P.'s estate.

24 J. In or about January 2006, CWB was hired as an independent
25 administrative, non-medical management company for both of SCASCC's "medical
26 group" locations. At that time, respondent's license as a Physician Assistant was in
27 suspension as a result of a stipulated decision in case no. 1E-2003-151220 in a
28 disciplinary proceeding before the Physician Assistant Committee. The contract

1 specifically excluded managers and employees from providing medical and/or related
2 health care services to patients. CWB ordered inventory and supplies paid for by the
3 medical group, paid for utilities and business overhead, hired its own employees and
4 expressly owned furniture and equipment at both facilities. The funds collected by
5 SCASCC were put into a bank account from which both respondent and Dr. N. could
6 withdraw funds, with both signatures being required on withdrawals greater than \$10,000.
7 Respondent was paid a \$10,000 per month management fee on top of the laser payments
8 and other payments made to her.

9 20. Respondent is further subject to disciplinary action under sections 3527,
10 2400, 2402, 2406, and 2408 of the Code, by reason of, but not limited too, the following:

11 A. Paragraphs 19 (A) through (J) are incorporated by reference as if fully set
12 forth herein.

13 B. Respondent acted as an employer of Dr. N., thereby, aiding and abetting
14 respondent's unlicensed practice of medicine.

15 C. SCASCC was not a properly organized and operated Moscone-Knox
16 Medical Corporation with Dr. N. filling the role of employee.

17 D. Respondent and the SCASCC staff were not properly supervised by Dr.
18 N., allowing them to perform procedures outside the scope of their licenses and without
19 Dr. N. being present.

20 E. Respondent's records were not properly cosigned and dated by Dr. N.,
21 within the times prescribed by law.

22 F. Throughout its operation, SCASCC was operated by Respondent, who
23 illegally sought to create her own patient base and then attempted to find a physician to
24 supervise her. Such physician was hired by Respondent and paid by Respondent through
25 SCASCC proceeds. In addition, Respondent billed for services rendered to patients even
26 though she was not authorized to render care, or even though she rendered care beyond
27 the scope of her authority.

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Physician Assistant Committee issue a decision:

4 1. Revoking the probation imposed in case no. 1E-2003-151220, and
5 imposing the discipline that was stayed, revocation of respondent's Physicians Assistant
6 Certificate No. PA 15583;

7 2. Revoking or suspending Physician Assistant Certificate Number PA
8 15583, issued to KRISTINE OWER, P.A.;

9 3. Ordering Kristine Ower, P.A., to pay the Physician Assistant Committee
10 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 125.3;

12 4. Taking such other and further action as deemed necessary and proper.
13

14 DATED: April 30, 2007
15

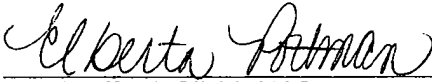
16 
17 ELBERTA PORTMAN
18 Executive Officer
19 Physician Assistant Committee
20 Department of Consumer Affairs
21 State of California
22 Complainant
23
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25
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28

EXHIBIT A
DECISION

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

KRISTINE OWER, P.A.)

Case No: 1E-2003-151220

Physician Assistant)
License No. PA-15583)

Respondent.)
_____)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision and Order by the Physician Assistant Committee, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on December 14, 2005

ORDERED November 14, 2005

PHYSICIAN ASSISTANT COMMITTEE


Robert Sachs, P.A., Chairperson

1 BILL LOCKYER, Attorney General
2 of the State of California
3 STEVEN H. ZEIGEN, State Bar No. 60225
4 Deputy Attorney General
5 California Department of Justice
6 110 West "A" Street, Suite 1100
7 San Diego, CA 92101

8 P.O. Box 85266
9 San Diego, CA 92186-5266
10 Telephone: (619) 645-2074
11 Facsimile: (619) 645-2061

12 Attorneys for Complainant

13 **BEFORE THE**
14 **PHYSICIAN ASSISTANT COMMITTEE**
15 **MEDICAL BOARD OF CALIFORNIA**
16 **DEPARTMENT OF CONSUMER AFFAIRS**
17 **STATE OF CALIFORNIA**

18 In the Matter of the Accusation Against:

Case No. 1E-2003-151220

19 KRISTINE OWER, P.A.
20 417 West Foothill Blvd., B101
21 Glendora, CA 91741

22 **STIPULATED SETTLEMENT AND**
23 **DISCIPLINARY ORDER**

24 Physician Assistant License No. PA 15583

25 Respondent.

26 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
27 above-entitled proceedings that the following matters are true:

28 **PARTIES**

1. Richard L. Wallinder (Complainant) is the Executive Officer of the
Physician Assistant Committee (hereinafter "PAC"). He brought this action solely in his official
capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of
California, by Steven H. Zeigen, Deputy Attorney General.

2. Respondent KRISTINE OWER, P.A. is represented in this proceeding by
attorney Harry Nelson, Esq., whose address is 11835 West Olympic Blvd., Suite 705
Los Angeles, CA 90064

3. On or about November 30, 2000, the PAC issued Physician Assistant License No. PA 15583 to KRISTINE OWER, P.A. (Respondent). The License was in full force and effect at all times relevant to the charges brought in the Accusation No. 1E-2003-151220 and will expire on November 30, 2006, unless renewed.

JURISDICTION

4. A Petition for Interim Suspension Order and an Accusation in Case No. 1E-2003-151220 were filed contemporaneously before the PAC, Medical Board of California, Department of Consumer Affairs, and are currently pending against Respondent. A true and correct copy of the Petition for Interim Suspension Order and the Accusation and all other statutorily required documents were properly served on Respondent on or about March 3, 2005. Respondent timely filed her Notice of Defense contesting the Petition for Interim Suspension Order and Accusation. Copies of the Petition for Interim Suspension Order and the Accusation No. 1E-2003-151220 are attached hereto as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in the Accusation No. 1E-2003-151220. Respondent has also carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

111

1 CULPABILITY

2 8. Respondent admits the truth of each charge and allegation in the following
3 paragraphs of the Accusation in Case No. 1E-2003-151220:

4 - Paragraphs 13 (A) through (D), with the understanding it was the esthetician
5 who chose the esthetician grade acid peel

6 - Paragraphs 13 (E) through (G), with the prescribing being done without patient
7 specific authorization;

8 - Paragraphs 13 (P) through (R), with respondent improperly using the
9 prescription pad of Dr. J.O. and failing to obtain patient specific approval for the
10 prescriptions;

11 - Paragraphs 13 (U) and (T)

12 - Paragraphs 14 (B), (H), (I), (J), (K), (L) and (P)

13 - Paragraph 16 .

14 As to all the other paragraphs and allegations in the Accusation in Case No. 1E-
15 2003-151220, respondent agrees that complainant has presented a prima facie case, and that such
16 paragraphs and allegations would be a basis for discipline if proved true at a hearing.

17 9. Respondent agrees that her Physician Assistant License is subject to
18 discipline and she agrees to be bound by the PAC 's imposition of discipline as set forth in the
19 Disciplinary Order below.

20 RESERVATION

21 10. The admissions made by Respondent herein are only for the purposes of
22 this proceeding, or any other proceedings in which the PAC, Medical Board of California, or
23 other professional licensing agency is involved, and shall not be admissible in any other criminal
24 or civil proceeding.

25 CONTINGENCY

26 11. This stipulation shall be subject to approval by the PAC. Respondent
27 understands and agrees that counsel for Complainant and the staff of the Physician Assistant
28 Committee may communicate directly with the Committee regarding this stipulation and

settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Committee considers and acts upon it. If the Committee fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect and, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Committee shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Committee may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician Assistant License No. PA 15583 issued to Respondent KRISTINE OWER, P.A. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and conditions:

1. ACTUAL SUSPENSION As part of probation, respondent is suspended from the practice of medicine as a physician assistant for six (6) months beginning on the effective date of this decision.

2. CONTROLLED DRUGS - MAINTAIN RECORD Respondent shall maintain a record of all controlled substances administered, transmitted orally or in writing on a patient's record or handed to a patient by the respondent during probation showing all the following: 1) the name and address of the patient, 2) the date, 3) the character and quantity of controlled substances involved, 4) the indications and diagnosis for which the controlled substance was furnished, and 5) the name of the supervising physician prescriber.

///

Respondent shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Physician Assistant Committee or its designee, upon request and without charge.

3. ETHICS COURSE Within 90 days of the effective date of this decision, respondent shall submit to the committee or its designee for its prior approval a course in ethics, which respondent shall successfully complete during the first year of probation. Respondent shall participate in an ethics course at her own expense.

4. MONITORING/SUPERVISION Within 30 days of the completion of respondent's six (6) month actual suspension, respondent shall submit to the committee or its designee for its prior approval a plan of practice in which respondent's practice shall be monitored by a supervising physician responsible for patients treated by the physician assistant.

If the supervising physician/monitor resigns or is no longer available, respondent shall, within 15 days, move to have a new supervising physician/monitor appointed, through nomination by respondent and approval by the committee.

Respondent shall not practice as a physician assistant until the supervising physician is approved by the committee. No prior supervising physician of respondent involved in this matter will be approved by PAC.

5. PROHIBITED PRACTICE - SETTING During probation, respondent may not practice except in a hospital as an employee of the hospital, or in the office of a medical group consisting of no less than three (3) physicians as an employee of that group, or in any other setting pre-approved in writing by the Committee or its designee under pre-approved terms and conditions. Respondent shall not practice in any setting in which she has any financial interest.

6. ON-SITE SUPERVISION Respondent shall have at all times on-site supervision by a supervising physician pre-approved by the PAC. No prior supervising physician of respondent involved in this matter will be approved by PAC.

7. NOTIFICATION OF EMPLOYER AND SUPERVISING PHYSICIAN
Respondent shall notify her current and any subsequent employer and supervising physician(s) of her discipline and provide a copy of the Stipulation, Decision, and Order to each such employer

1 and supervising physician(s) during her period of probation, at the onset of that employment.
2 Respondent shall ensure that each employer informs the Physician Assistant Committee, or its
3 agent, in writing within thirty (30) days, verifying that the employer and supervising physician(s)
4 have been informed of this Stipulation and Order.

5 8. OBEY ALL LAWS Respondent shall obey all federal, state, and local
6 laws, and all rules governing the practice of medicine as a physician assistant in California, and
7 remain in full compliance with any court ordered criminal probation, payments, and other orders.

8 9. QUARTERLY REPORTS Respondent shall submit quarterly
9 declarations under penalty of perjury on forms provided by the committee or its designee, stating
10 whether there has been compliance with all the conditions of probation.

11 10. PROBATION SURVEILLANCE PROGRAM COMPLIANCE
12 Respondent shall comply with the committee's probation surveillance program. Respondent
13 shall, at all times, keep the committee informed of her addresses of business and residence which
14 shall both serve as addresses of record. Changes of such addresses shall be immediately
15 communicated in writing to the committee. Under no circumstances shall a post office box serve
16 as an address of record, except as allowed by California Code of Regulations 1399.523.

17 Respondent shall, at all times, maintain a current and renewed physician assistant
18 license.

19 Respondent shall also immediately inform the committee, in writing, of any travel
20 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
21 than thirty (30) days.

22 Respondent shall pay the costs associated with probation monitoring each and
23 every year of probation, as designated by the PAC, which are currently set at \$ 3,173, but may be
24 adjusted on an annual basis. Such costs shall be payable to the PAC and delivered to the
25 designated probation surveillance monitor no later than January 31 of each calendar year. Failure
26 to pay costs within 30 days of the due date shall constitute a violation of probation.

27 11. INTERVIEW WITH MEDICAL CONSULTANT Respondent shall
28 appear in person for interviews with the committee's medical or expert physician assistant

1 consultant upon request at various intervals and with reasonable notice.

2 12. TOLLING FOR OUT-OF -STATE PRACTICE OR RESIDENCE The
3 period of probation shall not run during the time respondent is residing or practicing outside the
4 jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of
5 California to reside or practice elsewhere, including federal facilities, respondent is required to
6 immediately notify the committee in writing of the date of departure and the date of return, if
7 any.

8 13. INITIAL PROBATION INTERVIEW Respondent shall appear in person
9 for an initial interview with a designee of the PAC within 90 days of the final decision.
10 Respondent shall subject herself to an initial interview at a time and place determined by the
11 committee or its designee.

12 14. UNANNOUNCED CLINICAL SITE VISIT At least once per calendar
13 year, or more frequently as determined by the committee or its designee, unannounced clinical
14 site visits shall be made by the committee or its designee to ensure that respondent is complying
15 with all terms and conditions of probation.

16 15. COMPLETION OF PROBATION Upon successful completion of
17 probation as determined by the committee's executive officer, respondent's license will be fully
18 restored.

19 16. VIOLATION OF PROBATION If respondent violates probation in any
20 respect, the committee, after giving respondent notice and the opportunity to be heard, may
21 revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition
22 to revoke probation is filed against respondent during probation, the committee shall have
23 continuing jurisdiction until the matter is final, and the period of probation shall be extended
24 until the matter is final.

25 17. COST RECOVERY The respondent is hereby ordered to reimburse the
26 Physician Assistant Committee the amount of \$2,500 within 90 days from the effective date of
27 this decision for its investigative and prosecution costs. Failure to reimburse the committee's
28 costs for its investigation and prosecution shall constitute a violation of probation, unless the

1 committee agrees in writing to payment by an installment plan because of financial hardship.
2 The filing of bankruptcy by the respondent shall not relieve the respondent of her responsibility
3 to reimburse the committee for its costs.

4 18. VOLUNTARY LICENSE SURRENDER Following the effective date of
5 this probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise
6 unable to satisfy the terms and conditions of probation, respondent may voluntarily tender her
7 license to the committee. The committee reserves the right to evaluate the respondent's request
8 and to exercise its discretion whether to grant the request, or to take any other action deemed
9 appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered
10 license, respondent will no longer be subject to the terms and conditions of probation.

11
12 ACCEPTANCE

13 I have carefully read the above Stipulated Settlement and Disciplinary Order and
14 have fully discussed it with my attorney, Harry Nelson, Esq. I understand the stipulation and the
15 effect it will have on my Physician Assistant License. I enter into this Stipulated Settlement and
16 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
17 Decision and Order of the Physician Assistant Committee, Medical Board of California.

18 DATED: _____
19

20
21 KRISTINE OWER, P.A.
Respondent

22 I have read and fully discussed with Respondent KRISTINE OWER, P.A. the
23 terms and conditions and other matters contained in the above Stipulated Settlement and
24 Disciplinary Order. I approve its form and content.

25 DATED: _____
26

27
28 HARRY NELSON, ESQ.
Attorney for Respondent

1 committee agrees in writing to payne t y an installment plan because of financial hardship.
 2 The filing of bankruptcy by the respondent shall not relieve the respondent of her responsibility
 3 to reimburse the committee for its costs.

4 18. VOLUNTARY LICENSE SURRENDER Following the effective date of
 5 this probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise
 6 unable to satisfy the terms and conditions of probation, respondent may voluntarily tender her
 7 license to the committee. The committee reserves the right to evaluate the respondent's request
 8 and to exercise its discretion whether to grant the request, or to take any other action deemed
 9 appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered
 10 license, respondent will no longer be subject to the terms and conditions of probation.

11
 12 ACCEPTANCE

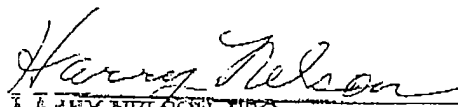
13 I have carefully read the above Stipulated Settlement and Disciplinary Order and
 14 have fully discussed it with my attorney, Harry Nelson, Esq. I understand the stipulation and the
 15 effect it will have on my Physician Assistant License. I enter into this Stipulated Settlement and
 16 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
 17 Decision and Order of the Physician Assistant Committee, Medical Board of California.

18 DATED: 6/23/05

19
 20 
 21 KRISTINE OWER, P.A.
 22 Respondent

23 I have read and fully discussed with Respondent KRISTINE OWER, P.A. the
 24 terms and conditions and other matters contained in the above Stipulated Settlement and
 25 Disciplinary Order. I approve its form and content.

26 DATED: 6/23/05

27
 28 
 HARRY NELSON, ESQ.
 Attorney for Respondent

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DATED: 6/23/05

Attorneys for Complainant

9

Exhibit A

ACCUSATION No. 1E-2003-151220

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 2, 2005
BY [Signature] ANALYST

1 BILL LOCKYER, Attorney General
of the State of California
2 MARYAGNES MATYSZEWSKI, State Bar No. 60225
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-3039
Facsimile: (619) 645-2061

7 Attorneys for Complainant
8

9 BEFORE THE
10 PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
11 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 1E-2003-151220

13 KRISTINE OWER, P.A.
aka KRISTINE OWER BOCKHOLDT
14 417 West Foothill Blvd., B101
Glendora, CA 91741

ACCUSATION

15 Physician Assistant License No.
16 PA 15583

17 Respondent.
18

19 Complainant alleges:

20 PARTIES

21 1. Richard L. Wallinder, Jr. (Complainant) brings this Accusation solely in
22 his official capacity as the Executive Officer of the Physician Assistant Committee, Department
23 of Consumer Affairs.

24 2. On or about November 30, 2000, Physician Assistant License No. PA
25 15583 was issued by the Committee to Kristine Ower, P.A. (hereinafter "respondent"). The
26 Physician Assistant was in full force and effect at all times relevant to the charges brought herein
27 and will expire on November 30, 2006, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Physician Assistant Committee, Medical Board of California (Committee), under the authority of the following sections of the Business and Professions Code (Code).

4. Section 3527 of the Code provides that the Committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician's assistant certificate for unprofessional conduct.

5. California Code of Regulations ("CCR"), Title 16, Section 1399.521 provides in pertinent part, "[i]n addition to the grounds set forth in section 3527, subdivision (a), of the [C]ode the [C]ommittee may deny, issue subject to terms and conditions, suspend, revoke, or place on probation a physician assistant for the following causes:

"(a) any violation of the State Medical Practice Act which would constitute unprofessional conduct for a physician and surgeon.

"..."

6. Section 125.3 of the Code states, in pertinent part, that the Committee may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7. Code section 2234 of the Code provides that unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter.

(b) Gross negligence.

(c) Repeated acts of negligence .

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

1 8. Section 2261 of the Code states:

2 "Knowingly making or signing any certificate or other document directly or
3 indirectly related to the practice of medicine or podiatry which falsely represents the
4 existence or nonexistence of a state of facts, constitutes unprofessional conduct."

5 9. Section 2262 of the Code states:

6 "Altering or modifying the medical record of any person, with fraudulent intent, or
7 creating any false medical record, with fraudulent intent, constitutes unprofessional
8 conduct."

9 "In addition to any other disciplinary action, the Division of Medical Quality or
10 the California Board of Podiatric Medicine may impose a civil penalty of five hundred
11 dollars (\$500) for a violation of this section."

12 10. Section 725 of the Code states:

13 "Repeated acts of clearly excessive prescribing or administering of drugs or
14 treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts
15 of clearly excessive use of diagnostic or treatment facilities as determined by the standard
16 of the community of licensees is unprofessional conduct for a physician and surgeon,
17 dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist.
18 However, pursuant to Section 2241.5, no physician and surgeon in compliance with the
19 California Intractable Pain Treatment Act shall be subject to disciplinary action for
20 lawfully prescribing or administering controlled substances in the course of treatment of a
21 person for intractable pain."

22 11. Section 810 of the Code states:

23 "(a) It shall constitute unprofessional conduct and grounds for disciplinary action,
24 including suspension or revocation of a license or certificate, for a health care
25 professional to do any of the following in connection with his or her professional
26 activities:

27 "(1) Knowingly present or cause to be presented any false or fraudulent claim for
28 the payment of a loss under a contract of insurance.

"(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

"(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.

"(c) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act."

12. Section 2266 of the Code provides that the failure to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence, Repeated Negligent Acts, Incompetence, Dishonesty)

13. Respondent is subject to disciplinary action under sections 2234 (b), (c), (d), and (e) on account of the following:

Patient P.S.

A. In the Spring of 2003, respondent Ower was hired by Dr. R. P-T. to work as a physician assistant at two skin care center locations in Arcadia and Laverne. In or about August 2003, patient P.S. visited the center and asked to speak with the dermatologist on premises regarding her facial pores. P.S. was introduced to respondent as the dermatologist.

B. Respondent directed O.G. to apply salicylic acid to P.S.'s face. Almost immediately P.S.'s face began to burn. She told O.G. to remove it from her face, which was done with a wet towel. When P.S. arrived home she saw scabbing around her mouth where the acid had been.

C. P.S. returned to skin center and respondent ordered O.G. to perform a hydrating facial which consisted of steaming and exfoliating the patient's face.

1 P.S. was left with dark spots on her face which remained for more than six months.

2 D. Respondent told P.S. she would give her a free photo-facial. When
3 P.S. returned to the skin center respondent's unlicensed husband put numbing cream on
4 P.S.'s face which caused swelling.

5 Patient Y.C.

6 E. During the summer of 2003, Y.C. accompanied her daughter to an
7 appointment she had with respondent. After her daughter's appointment, Y.C. was
8 approached by respondent who told her about a new procedure called Thermage.
9 Respondent said that it was like a face-lift and the results were a sure thing. Y.C. was
10 impressed with respondent's presentation and booked an appointment for the procedure
11 which cost \$2,500. Respondent said she would call in a prescription for medication
12 which Y.C. should take an hour before the procedure.

13 F. Y.C. took the three pills as ordered by respondent and was virtually
14 incoherent by the time of her appointment. Respondent and her husband had to
15 physically remove the patient from her car and take her into the center. Y.C.'s first
16 memory was waking up in her daughter's apartment. Her face looked as if she had been
17 crying. Y.C. was driven home by her daughter. Once home she became sick and
18 vomited. Six months after the procedure Y.C. had not noticed any difference to her face.
19 She asked for and received a refund.

20 G. Respondent prescribed patient Y.C. triazolam, hydrocodone,
21 prochlorperazine without the approval of physician Dr. P-T.

22 Patient M.F.

23 H. In February 2004, patient M.F. saw respondent at a location in
24 Apple Valley. He wanted to have some skin tags removed from his arms. Respondent
25 never had M. F. sign a consent regarding the procedure, nor did she ever explain the risks
26 involved. Before the procedure respondent took a biopsy of the patient's arm.

27 I. Respondent began rubbing a solution from a gauze pad onto the
28 patient's arm. An assistant held a fan close to the arm. Respondent continued to rub the

1 solution onto the patient's arms for the next hour, during which the patient only felt a
2 tingling sensation. After rubbing on the solution for about an hour and a half respondent
3 stopped and wrote the patient a prescription for Efudex, a medication used on pre-
4 cancerous and frankly cancerous lesions.

5 J. Two days later, the patient's arms began burning. He called
6 respondent who prescribed Silvadine and Codeine. The patient's arms began to blister
7 and swell. When M.F. returned to see respondent she told him the skin biopsy had come
8 back cancerous.

9 K. M.F. saw another doctor instead, Dr. T., who said the patient had
10 3rd degree burns of the arms. He also told the patient the biopsies did not show cancer.
11 M.F. has permanent scars on his arms.

12 L. Respondent wrote the prescriptions for patient M.F. without
13 physician approval.

14 Patient N.H.

15 M. Patient N.H. saw respondent at the skin care center in Arcadia in
16 the summer of 2003, for the purpose of receiving Botox injections. She heard various
17 staff members call respondent a physician even though the patient knew she was a
18 physician assistant.

19 N. The Botox injection was directed at wrinkles in the patient's
20 forehead. When she was done, respondent told the patient she had some left over and
21 would give her additional injections for free. Unknown to the patient respondent injected
22 the remaining Botox into her eyebrows.

23 O. Within a couple of days the patient noticed her eyebrows had
24 pulled upward and she had lost the double eyelid she, like most Asians, had.

25 P. Respondent offered the patient a Thermage procedure to counter
26 the effects of the botox. While in the waiting room prior to the procedure respondent's
27 husband gave N.H. a cup of pills he said respondent told the patient to take to make her
28 sleepy, prevent vomiting and help with pain. Respondent told the patient one of the pills

1 was Halcyon.

2 Q. N.H. took the pills and the day after the procedure felt like she had
3 an awful hangover. The thermage did no reverse the effects of the botox and the patient's
4 eyebrows did not return to normal for months.

5 R. Respondent failed to give the patient any post procedure
6 instructions and, although the prescriptions were written on the pad of a Dr. J.O.,
7 respondent never consulted with the doctor prior to writing the prescriptions, nor did the
8 patient ever see that doctor.

9 Patient B.J.

10 S. B.J. was the office manager of the skin care center in Laverne
11 where respondent worked. She frequently heard client/patients call respondent "Dr.
12 Ower." When B.J. would inform them respondent was a physician assistant they seemed
13 surprised because respondent had introduced herself as "Dr. Ower."

14 T. In the summer or early fall of 2004, B.J. agreed to have respondent
15 give her a thermage procedure. Prior to doing so, respondent gave B.J. a handful of pills
16 and told her to take them about an hour before her appointment. Respondent also gave
17 B.J. a prescription which B.J. took to her pharmacist for clarification. The pharmacist
18 told B.J. the dosages were too high. After filling the prescription, B.J. took only half the
19 amount respondent prescribed. The medications were compazine and halcyon. The
20 prescription was signed by respondent and Dr. P-T.

21 U. B.J. noticed no change from to her face from the thermage.
22 Sometime later, B.J. allowed respondent to inject her botox. At no time did respondent
23 document the procedures she performed on patient B.J.

24 Patient N.T.

25 V. N.T. was receptionist working at the Arcadia skin care center in
26 2003. Because she had acne respondent suggested she take Accutane. N.T. had no
27 medical insurance. Respondent's friend D.D. did. Respondent prescribed the Accutane
28 in the name of D.D. for the purpose of giving it to N.T. Respondent did not have N.T.

1 take a pregnancy test prior to prescribing the Accutane. Nor did she get authorization
2 from a physician qualified to prescribe the drug.

3 W. Respondent told N.T. to take one pill per day, and later changed
4 that to two pills each day. After two or three months N.T. stopped taking the medication
5 because another co-worker, R.K. advised her it was dangerous.

6 X. Respondent also performed five or six smooth beam laser
7 treatments on N.T. Respondent failed to document the Accutane prescription as well as
8 the smooth beam laser treatments in the patient's chart.

9 Miscellaneous

10 Y. At the skin centers in Arcadia and Laverne respondent diagnosed
11 patients with roseacea whether or not they had the condition because of increased
12 insurance payments.

13 Z. Respondent lied about her age and about her experience as a
14 physician assistant.

15 AA. Prior to a thermage procedure on patient C.M. respondent and her
16 husband gave the patient two shots of Vodka to help her relax.

17 BB. Respondent performed a TSA acid peel on co-worker O.G. in
18 September 2003. Respondent also gave O.G. a photo-facial. Respondent failed to
19 document having performed the procedures.

20 CC. In 2003, respondent treated a patient named L.R. but billed all her
21 treatments under her sister Michelle's name because the latter had insurance. Respondent
22 burned L.R.'s face with a TCA peel. She told R.K. to have the patient use an over the
23 counter product called Aquaphor on her face.

24 DD. Respondent removed moles from patients and had her staff set
25 them on the counter. They never went to the pathologist's office.

26 14. Respondent committed gross negligence, repeated negligent acts, was
27 incompetent, and committed dishonest acts by reason of, but not limited too, the following:

28 ///

- 1 A. Respondent used salicylic acid on P.S. despite the patient being
2 darkly complected.
- 3 B. Respondent prescribed dangerous medications to Y.C. without
4 physician authorization.
- 5 C. Respondent tried to remove skin tags from M.F. by rubbing acid
6 on his arms.
- 7 D. Respondent lied to patient M.F. about the cancerous condition of
8 his skin tags.
- 9 E. Respondent prescribed patient M.F. Efudex even though he had no
10 pre-cancer or frankly cancerous condition.
- 11 F. Respondent prescribed Efudex, and other medications, to patient
12 M.F. without physician authorization.
- 13 G. Patient injected botox into the eyebrow of patient N.H. without her
14 consent.
- 15 H. Respondent prescribed patient N.H. Halcyon and other dangerous
16 medications to patient N.H. without physician authorization.
- 17 I. Respondent prescribed patient B.J. dangerous medications without
18 physician authorization.
- 19 J. Respondent failed to document the procedures she performed on
20 patient B.J.
- 21 K. Respondent prescribed patient N.T. the dangerous drug Accutane
22 without physician approval.
- 23 L. Respondent prescribed patient N.T. Accutane without having her
24 undergo a pregnancy test.
- 25 M. Respondent knowingly prescribed Accutane to her friend D.D. for
26 the purposes of having been given to patient N.T.
- 27 N. Respondent failed to document the procedures she performed on
28 patient N.T.

1 O. Respondent knowingly diagnosed patients with roseacea for the
2 purpose of defrauding insurance companies.

3 P. Respondent lied about her age and about her experience as a
4 physician assistant.

5 Q. Respondent gave patient C.M. shots of Vodka before a Thermage
6 procedure in order to relax her.

7 R. Respondent failed to document the procedures she performed on
8 co-worker O.G.

9 S. Respondent billed the treatments she provide to L.R. to the
10 insurance company of L.R.'s sister, Michelle.

11 T. Respondent failed to send out the moles she removed from
12 patients' for evaluation.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Making False Statements)**

15 15. Respondent is subject to disciplinary action under section 2261 in that
16 during her care, treatment, and management of the patients identified in paragraph 13 (A)
17 through (X), and during the time of her employment with the skin care centers in Arcadia,
18 Laverne, and Apple Valley, respondent made false statements relating to the practice of
19 medicine. Paragraphs 13 (H) through (L), (V) through (X), (Y), (Z), and (CC) are incorporated
20 by reference as if fully set forth herein.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Excessive Prescribing)**

23 16. Respondent is subject to disciplinary action under section 725 in that
24 during her care, treatment, and management of the patients identified in paragraph 13 (A)
25 through (X), and during the time of her employment with the skin care centers in Arcadia,
26 Laverne, and Apple Valley, she excessively prescribed dangerous medications as set forth in
27 paragraphs 13 (A) through (X), and (Y) through (CC) which are incorporated by reference as if
28 fully set forth herein.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Insurance Fraud)

3 17. Respondent is subject to disciplinary action under section 810 in that
4 during her care, treatment, and management of the patients identified in paragraph 13 (A)
5 through (X), and during the time of her employment with the skin care centers in Arcadia,
6 Laverne, and Apple Valley, she committed acts of insurance fraud as set in paragraphs 13 (A)
7 through (X), and (Y) through (CC) which are incorporated by reference as if fully set forth
8 herein.

9 FIFTH CAUSE FOR DISCIPLINE

10 (Failure to Maintain Adequate and Accurate Records)

11 18. Respondent is subject to disciplinary action under section 2266 in that
12 during her care, treatment, and management of the patients identified in paragraph 13 (A)
13 through (X), and during the time of her employment with the skin care centers in Arcadia,
14 Laverne, and Apple Valley, she failed to keep adequate and accurate records as set in paragraphs
15 13 (A) through (X), and (Y) through (CC) which are incorporated by reference as if fully set forth
16 herein.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Physician Assistant Committee issue a decision:

20 1. Revoking or suspending Physician Assistant Number PA 15583, issued to
21 KRISTINE OWER, P.A.;

22 2. Ordering KRISTINE OWER, P.A. to pay the Physician Assistant
23 Committee the reasonable costs of the investigation and enforcement of this case, pursuant to
24 Business and Professions Code section 125.3;

25 ///

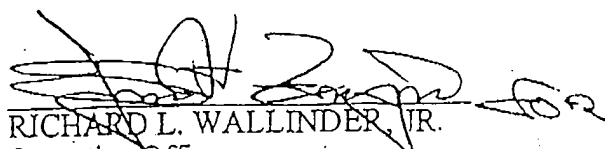
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3. Taking such other and further action as deemed necessary and proper.

DATED: March 3, 2005


RICHARD L. WALLINDER, JR.
Executive Officer
Physician Assistant Committee
Department of Consumer Affairs
State of California
Complainant

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